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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

HOMELAND INSURANCE COMPANY)
OF NEW YORK,)

Plaintiff,)

vs.)

Case No. 15-CV-31-J

POWELL HOSPITAL DISTRICT,)
POWELL VALLEY HEALTH CARE,)
INC., HEALTHTECH MANAGEMENT)
SERVICES, INC., JEFFREY HANSEN,)
M.D., and WILLIAM D. PATTEN,)

Defendants.)

and)

HEALTHTECH MANAGEMENT)
SERVICES, INC. and BILL PATTEN,)

Counterclaimants)

vs.)

**UNOPPOSED MOTION FOR LEAVE
TO AMEND ORDER ON INITIAL
PRETRIAL CONFERENCE, ORDER
BIFURCATING DISCOVERY AND
ORDER SCHEDULING PHASE I**

UMIA INSURANCE, INC. and)
LEXINGTON INSURANCE COMPANY,)

Counterclaim-Defendants)

)
and)
)
POWELL HOSPITAL DISTRICT,)
POWELL VALLEY HEALTH CARE,)
INC., and JEFFREY HANSEN, M.D.,)
)
Cross-Claimants,)
)
vs.)
)
UMIA INSURANCE, INC., and)
LEXINGTON INSURANCE COMPANY,)
)
)
Crossclaim-Defendants.)

COME NOW, Powell Hospital District, Powell Valley Health Care, Inc. and Jeffrey Hansen, M.D., and move this Court for an Order amending the Order on Initial Pretrial Conference, S Order Bifurcating Discovery and Order Scheduling Phase I.

Subsequent to the initial Order on Pretrial Conference, a question has arisen during discussion among counsel as to whether the issue of Defendants' request for attorney fees allowed under Wyoming Statute is to be held in abeyance until it is determined whether or not there is coverage and whether or not Phase II will be necessary. It appears that the burden of proving the right to recover attorney fees is substantially similar to the burden of proving bad faith and, for clarification purposes, Movants request that the Order clarify that discovery relating to extra-contractual relief, including claims for bad faith, unreasonable conduct, and including claims for attorney fees and costs pursuant to W.S. 2-15-124, shall be conducted in Phase II, if necessary.

In addition, Movants had advised the Court that they anticipated clarifying their pleadings which had already referenced bad faith pertaining to UMIA to make it clear they

would, if there were no coverage, pursue a bad faith claim against UMIA. The Court set May 1, 2016 as the deadline for amendments but then, in that paragraph, suggested February 1, 2016 as a date for these Movants to assert a separate bad faith claim against UMIA. Movants and UMIA have had discussions pertaining to possible settlement of the bad faith claim and the rescission claim pled by UMIA, which issues are still being considered. Subsequent to these discussions, it was discovered that a separate date had been established for filing the amendment pertaining to bad faith against UMIA. Counsel for UMIA has informed Movants that they have no objection to amending the Initial Pretrial Order to delay the deadline for filing an amendment to assert any separate claim for any extra-contractual relief, including claims for bad faith, unreasonable conduct and including claims for attorney fees and costs pursuant to W.S. §2-15-124, to fifteen (15) days after completion of Phase I, if the case proceeds to Phase II.

There being no objection to the proposed amendment by any of the parties to this litigation, Movants respectfully request that the Court enter its Order amending the Initial Pretrial Order as set forth above.

Dated this 15th day of March, 2016.

/s/ Tracy J. Copenhaver

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion for Leave to Amend Initial Pretrial Order via CM/ECF mail notification to the following, this 15th day of March, 2016:

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